

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

HOME INSTEAD, INC., a Nebraska corporation,)	8:05CV237
)	
)	
Plaintiff,)	
)	
vs.)	REFERRAL TO BANKRUPTCY
)	
WILLIAM P. VELEZ, an individual,)	
and BILLYNNE PROPERTIES, INC., a corporation,)	
)	
Defendants.)	

The parties in this case appeared before the court today on a motion for preliminary injunction. Filing No. 5. Moments before the court began this hearing, counsel for the defendants notified the court that it had just filed a suggestion of bankruptcy on behalf of defendants in this case. Filing No. 11. During the hearing, the court conferred with counsel regarding the bankruptcy. A Chapter 11 bankruptcy evidently has been filed in federal bankruptcy court in New Jersey as of today on behalf of Billynne Properties, Inc. Defendants contend that the filing operates as a stay of this case. The court is inclined to agree that a stay is effective at least as to Billynne Properties, Inc. However, the Chapter 11 has not been filed as to defendant William Velez. Apparently William Velez has signed as personal guarantor on behalf of Billynne Properties, Inc. Counsel for the defendant argues that this court should not proceed against William Velez, since his issues are intertwined with those of Billynne Properties, Inc. To further complicate the matter, counsel for defendant informed the court that William Velez filed a Chapter 7 bankruptcy in April 2004 in New Jersey, after the filing of this lawsuit in state court, and the bankruptcy court discharged his debts in August 2004. Consequently, counsel argues that the Chapter 7 discharge operates to absolve defendant William Velez of any liability. Counsel for plaintiff argues that the Chapter 7 bankruptcy did not include the debt owed to plaintiff

Home Instead, Inc. Plaintiff further alleges that the Chapter 11 filing on behalf of Billynne Properties, Inc. will not apply to plaintiff, as it will be deemed a bad faith filing.

The court hereby refers this case to Bankruptcy Judge Timothy Mahoney pursuant to NEGenR 1.5(a)(1) for a determination of whether this case should be stayed in whole or in part and to make whatever other determinations the bankruptcy court deems appropriate.

THEREFORE, IT IS ORDERED THAT this case is referred to the Bankruptcy Court for the District of Nebraska as set forth herein.

DATED this 7th day of June, 2005.

BY THE COURT:

s/Joseph F. Bataillon
JOSEPH F. BATAILLON
UNITED STATES DISTRICT JUDGE